IN THE HIGH COURT OF JUDICATURE AT BOBBY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 55 OF 2005

Shri Ashok Sidramappa Birajdar & Anr. ..Applicants.

V/s.

The State of Maharashtra .. Respondent.

Shri D.V. Kedar i/by G.V.Bhagat for Applicants.
Shri S.R. Shinde, APP for Respondent.

CORAM : A.M.KHANWILKAR, J.
DATED : JANUARY 13, 2005

PC :-

. Heard the learned counsel for the parties. Perused the record.

2. The applicants have been booked in relation to the offence punishable under section 395 of the I.P.C., on the allegations that they were present at the time of incident. No statement has been brought to my notice, indicating overacts by any of these applicants. Mere presence will be of no consequence, having regard to the manner in which occurrence has taken place. Assuming that the applicants were present at the relevant time, the offence of 395 is on account of the fact that accused No.1 during the

scuffle, has allegedly snatched gold chain and taken sum of Rs. 4000/- from the complainant. However, no recovery of the gold chain is made though the accused No.1 was arrested on the spot. The amount of cash recovered from the persons of the accused No.1 does not match with the description of the cash possessed by the complainant at the relevant time. Assuming that the accused No.1 had intention to snatch the gold chain that intention cannot make the applicants liable because of their presence at the relevant time. More over, as investigation is complete and chargesheet has been filed and no overact is attributed by the witnesses to the applicants as such they have been implicated because of the general statement, the applicants deserve to be enlarged on bail on the following terms and conditions :-

(a) The Applicants are enlarged on bail in connection with C.R.No. I-243/2004, registered with Ulhasnagar Police Station, Dist. Thane on executing personal bond in the sum of Rs. 50,000/- (Rs. Fifty thousand only) each with two local sureties in the like amount.

(b) The Applicant shall extend full co-operation to the investigating officer as and when called upon as well as for early disposal of the trial. If the trial court is of the opinion that he is responsible for delay in trial that fact be recorded in the Rozanama, which can be a ground for cancellation of bail.

(c) The Applicants shall not leave jurisdiction of the concerned police station without prior intimation to the investigating officer as well as to the trial court.

(d) The applicants shall not influence the prosecution witness or tamper with the prosecution evidence in any manner whatsoever.

. Ordered accordingly.

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